

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

THE LOCK LOFT, LLC,	)	
	)	
Plaintiff	)	Case No. 1:20-cv-00122 (Erie)
	)	
vs.	)	
	)	
ERIE INSURANCE PROPERTY	)	RICHARD A. LANZILLO
& CASUALTY COMPANY	)	UNITED STATES MAGISTRATE JUDGE
doing business as	)	
ERIE INSURANCE EXCHANGE,	)	ORDER ON PLAINTIFF'S MOTION
	)	FOR LEAVE TO FILE AMENDED
	)	COMPLAINT
Defendant	)	[ECF No. 26]
	)	

The Plaintiff's motion to file an Amended Complaint is **GRANTED**. The Clerk of Court is hereby instructed to detach the Exhibit, docketed at ECF No. 26-1, and re-docket it as the Amended Complaint. The Exhibit docketed at ECF No. 26-2 should likewise be re-docketed as an Exhibit to the Amended Complaint. Counsel is reminded that:

Given that motions filed pursuant to Federal Rule of Civil Procedure 12(b) are discouraged if the defective pleading is curable by amendment, the Court requires that the parties confer prior to the filing of such a motion to determine whether it can be avoided. The duty to meet and/or confer extends to parties appearing pro se but does not apply to incarcerated pro se litigants. Consistent with this rule, the party moving for dismissal must attach a certificate to their motion stating that they have made good faith efforts to confer with the non-moving party in order to determine whether the identified pleading deficiencies may be cured by amendment. Motions to Dismiss that do not contain the required certificate will be summarily denied.

*U.S. Magistrate Judge Richard Lanzillo; Chambers Practice and Procedures, Section II(D) (available at [www.pawd.uscourts.gov](http://www.pawd.uscourts.gov)).*

The Defendant's pending Motion to Dismiss (ECF No. 13) does not contain a Certificate of Conferral, and the Plaintiff's motion to file an Amended Complaint does not indicate that any

discussions took place between counsel prior to the filing of the motion to amend. *See* ECF No. 27. Therefore, the Defendant's Motion to Dismiss (ECF No. 13) is hereby **DENIED**, without prejudice to it being re-filed once the Amended Complaint has been properly docketed and served on any newly named Defendants.

Entered and Ordered this 18<sup>th</sup> day of September, 2020.



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RICHARD A. LANZILLO  
United States Magistrate Judge